

CHAPTER 7 DEFINITIONS

493—7.1(13B,815) Definitions. As used in these rules, unless the context otherwise requires, the following definitions apply:

“Affidavit of financial status” means a full written disclosure of all income, assets, liabilities, dependents, and other information required to determine if an applicant qualifies for legal assistance by an appointed attorney.

“Appeal” means a proceeding, other than an interlocutory appeal, filed with the Iowa supreme court and does not include a petition for certiorari filed with the United States Supreme Court.

“Applicant” means a person requesting legal assistance by an appointed attorney.

“Appointed attorney” means an attorney appointed by the court to represent an indigent person.

“Assets” means all resources or possessions of the applicant.

“Attorney” means an individual licensed to practice law in Iowa.

“Attorney time” means the total time the attorney appointed to a case spends on in-court time, out-of-court time, and in travel time attributable to that specific case. Attorney time does not include time spent performing clerical activities.

“Case” means all charges or allegations arising from the same transaction or occurrence or contained in the same trial information or indictment in a criminal proceeding or in the same petition in a civil or juvenile proceeding.

“Child” or *“juvenile”* means a person so defined in Iowa Code chapter 232.

“Claimant” means an appointed attorney, a county, or other person authorized by Iowa law and the rules of criminal procedure to make application to the state for reimbursement of attorney fees, depositions, and other expenses incurred from the representation of an indigent person.

“Clerical activities” means activities including, but not limited to, opening files, closing files, making photocopies, opening mail, sending mail, sending a fax, picking up or delivering documents, scheduling, or billing.

“Contract” means a written agreement between the state public defender and an attorney.

“Court-appointed attorney” means an attorney appointed by the court to represent an indigent person whether or not the attorney has a contract with the state public defender.

“Date of service” means, for adult fee claims, the date on which the case was dismissed or the client was acquitted or sentenced, the date of mistrial, the date warrant was issued for the client, or the date of the attorney’s withdrawal from the case. If a motion for reconsideration is filed, the date on which the court rules on that motion is the date of service. For interim claims, date of service means the last date on the itemization. For juvenile claims, date of service means the date of the dispositional hearing or most recent review hearing, the date of the attorney’s withdrawal, or the date of dismissal. For noncontract appellate claims, date of service means the date on which the case is disposed of or dismissed. For contract attorneys, date of service means the date of filing of the page-proof brief or final brief. For claims filed as a result of a notice of action letter, date of service means the date of the notice of action letter. For claims filed as a result of a court order after hearing for review of the fee claim, date of service means the date of the order.

“Department” means the department of inspections and appeals.

“Family” or *“household”* means the applicant, applicant’s spouse, including a common-law spouse, and applicant’s children living in the same residence.

“Fee limitations” means the fee limitations established by the state public defender for specific classes of cases.

“Fees” means the consideration paid to an appointed attorney to represent an indigent.

“Good cause” means a sound, effective and truthful reason. Good cause is something more than an excuse, plea, apology, extenuation, or some justification. Inadvertence or oversight does not constitute good cause.

“Governmental assistance program” means any public assistance program from which a person is receiving assistance.

“Income” means any money received from any source, including but not limited to remuneration for labor, products or services; money received from governmental assistance programs; tax refunds; prize winnings; pensions; investments; and money received from any other source.

“In-court time” means time spent by an appointed attorney engaged before a judge or jury including, but not limited to, arraignments, bail hearings, pretrial conferences, pretrial motion hearings, evidentiary hearings, jury selection, trial, plea proceedings, posttrial hearings, and probation violation hearings. In-court time does not include time spent at foster care review board hearings, staffings or any other meetings with other state agencies.

“Indigent” means a person entitled to an appointed attorney pursuant to Iowa Code section 815.9.

“Juvenile proceeding” means a case in juvenile court under Iowa Code chapter 232 wherein the attorney acts as guardian ad litem for the child in interest or provides legal counsel for the child, parent, guardian or custodian.

“Liabilities” means all living, business or farming expenses and fixed debts.

“Local public defender” means an attorney in the trial division of the state public defender system who performs the duties outlined in Iowa Code section 13B.9.

“Notice of action letter” means a letter sent by the state public defender to notify the claimant that the claimant’s fees or expenses were reduced.

“Out-of-court time” means time actually spent by the attorney appointed to the case in drafting documents, case preparation, depositions and other discovery, client or witness interviews, investigation, research, brief drafting, conferences or negotiations with opposing counsel or the court, reviewing records, and other productive case-related time that is not in-court time or travel time. Out-of-court time does not include clerical activities.

“Paralegal time” means time spent preparing pleadings and motions, reviewing transcripts, performing legal research, interviewing witnesses and attending staffings in juvenile cases. Paralegal time does not include clerical activities.

“Person” means an individual, corporation, limited liability company, government or governmental subdivision or association, or any legal entity.

“Poverty income guidelines” means the annual poverty income guidelines established by the U.S. Department of Health and Human Services (DHHS).

“Rules of criminal procedure” means the rules prescribed by the supreme court that govern criminal actions and proceedings in all courts in the state.

“State public defender” means the state public defender appointed pursuant to Iowa Code chapter 13B.

“State public defender system” means a system for providing defense services within the state by means of a centrally administered organization having a full-time staff.

“Timely claim” means a claim processed prior to August 31 in the year following the fiscal year of the date of service.

“Travel time” means the reasonable and necessary time spent by the attorney in automobile travel under one of the following circumstances:

1. To and from the scene of a crime;
2. To and from the location of a pretrial hearing, trial, or posttrial hearing, if the venue has been changed from the county in which the crime occurred;
3. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;

4. To and from the place of detention of a client in a criminal case if the place of detention is other than the county seat of the county in which the crime occurred;

5. To and from the location of the placement of a child in a juvenile case if the attorney is required by statute to visit the placement and the placement is located in Iowa, but outside the county in which the case is pending;

6. To and from the location of the placement of a child in a juvenile case if required by statute and court order to visit the placement and the placement is outside the state of Iowa;

7. To and from a court of appeals or supreme court argument; or

8. Other travel for which authorization is obtained from the state public defender.

“*Written*” as used in these rules may include electronically transmitted communication to the extent permitted by rules of the state public defender.

This rule is intended to implement Iowa Code chapters 13B and 815.

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CHAPTERS 8 and 9

Reserved